

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
v.	:	NOS. 02-736 and 03-442
	:	
TARELL STEWART	:	Consolidated

ORDER

AND NOW, this 29th day of September 2015, upon consideration of Defendant's Motions under consolidated cases for a Reduction of Sentence under 18 U.S.C. § 3582(c)(2) and Amendment 782 to the Sentencing Guidelines (ECF Doc. Nos. 71 in 02-736 and 41 in 03-442) and the United States' Response (ECF Doc. Nos. 74 and 44), it is **ORDERED** Defendant's Motions are **DENIED**¹.



KEARNEY, J.

¹ A two (2) level base offense reduction under 18 U.S.C. 3582 (c)(2) and Amendment 782 of the United States Sentencing Guidelines effective on November 1, 2014 is applied retroactively. Mr. Stewart is presently serving a term of imprisonment for violating the conditions of supervised release. This Court, through the Honorable William H. Yohn, revoked his supervised release and sentenced him to imprisonment for forty-six (46) months on January 17, 2013 (ECF Doc. No. 70). Accordingly, Mr. Stewart continues to serve a term of imprisonment for violating supervised release. The Sentencing Guidelines specifically provide the reduction is not authorized for a term of imprisonment imposed upon a revocation of supervised release. U.S.S.G. § 1B1.10 app. note 7(A) (note 5(A) prior to the 2014 amendments); *see also United States v. Nelson*, 410 F. App'x 734 (5th Cir. 2010); *United States v. Forman*, 553 F.3d 585, 588-89 (7th Cir. 2009) (*per curiam*).